

REMARKS**Summary of the Office Action**

Claims 43-48 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Terada in view of Ota et al., and claim 49 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Terada in view of Peel III.

Summary of the Response to the Office Action

Applicants have cancelled claims 44-45 and 47-49 without prejudice or disclaimer.

Applicants also reiterate their December 19, 2003 Request for Interference with U.S. patent 6,547,741 under 37 C.F.R. § 1.607.

Claim 46 remains pending for consideration.

November 23, 2004 Telephonic Interview

The undersigned wishes to extend his thanks for the courtesies extended by the Examiner during the telephonic interview on November 23, 2004. During this interview, the undersigned discussed the patentability of pending claims 43-49 in view of Ota and Terada.

With regards to claim 46, the undersigned explained that Ota tells the user whether the sphygmomanometer is located at the level of the heart (e.g., LED, buzzer) based on the intensity of the signal received. However, claim 46 refers to arrows that direct the user toward the correct position. Ota's acoustic sensor cannot tell a user whether the sphygmomanometer is above or below the heart, only that it is not at the correct position. For instance, Ota's device cannot tell a user whether it is located on the left or right side of the bell-shaped curve in Fig. 8 of Ota. In contrast, claim 46 recites a device that is capable of distinguishing between locations above the heart and locations below the heart. Applicants' preferred embodiment measures an angular displacement. If the measured angle is less than that corresponding to the heart level, for example, then the arrows instruct the user to move the arm upward and if the measured angle is greater than that corresponding to the heart level, it instructs the user to move the arm downward.

The Examiner agreed with Applicants' arguments for patentability for claim 46.

The Rejections of Claims 43-49 under 35 U.S.C. § 103

Claims 43-45 and 47-49 have been cancelled. The rejections of claims 43-45 and 47-49 are therefore moot. Applicants intend to pursue the subject matter of claims 43-45 and 47-49 in a continuation application. Thus, Applicants do not disclaim the subject matter of claims 43-45 and 47-49, nor do the Applicants acquiesce in the Examiner's reasons for rejecting the cancelled claims.

In accordance with the agreements reached during the November 23, 2004 Examiner's interview, Applicants respectfully request that the Examiner remove the rejection to claim 46 under 35 U.S.C. § 103 and indicate that claim 46 is now allowable over the art.

Request for Interference Under 37 C.F.R. § 1.607

Applicants reiterate their December 19, 2003 request for interference with U.S. Pat. No. 6,547,741 ('741 patent) in light of the indication that claim 46 is patentable. Claim 46 is identical to claim 4 of the '741 patent. This application has an earlier effective filing date than the '741 patent and a declaration of interference is the appropriate next action. Reference is made to the discussion presented on pages 9-10 of Applicants' prior amendment and response which was filed on December 19, 2003.

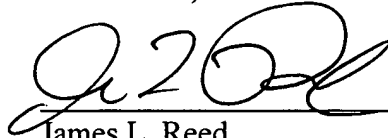
CONCLUSION

In view of the foregoing, Applicants respectfully request reconsideration of this application. Should the Examiner believe that anything further would be desirable to place this application into even better condition for allowance, the Examiner is invited to contact the Applicants' undersigned representative by telephone at (202) 739-5772.

EXCEPT for issue fees payable under 37 C.F.R §1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. §1.136(a)(3).

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP



James L. Reed

Registration No. 43,877

Date: December 10, 2004

MORGAN, LEWIS & BOCKIUS LLP

1111 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

Telephone: (202) 739-3000

Facsimile: (202) 739-3001

Customer No. 009629